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DECISION
ON PETITION

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

In re Application of:
Ylian Saint-Hilaire, et al.
Application No. 09/813,099
Filed: March 19, 2001
For: **ROAMING IN A COMMUNICATION
NETWORK**

This is a response to the Petition to Withdraw Holding of Abandonment pursuant to 37 C.F.R. §1.181, filed August 25, 2005. No fee is required.

This application became abandoned for failure to timely submit the issue fee due in response to the Notice of Allowance and Issue Fee Due mailed May 3, 2005. A Notice of Abandonment has not been mailed.

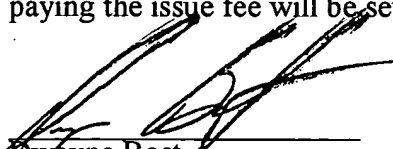
Petitioner asserts that the Notice of Allowance mailed May 3, 2005 was never received. In support therefore, Petitioner attests that the Office communication (Notice of Allowance) was not received at the correspondence address, and that a search of the contents of the file jacket and docket records reveal no evidence of receipt. Copies of the docket records have also been included to corroborate petitioner's claim.

The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c), section II. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has met the requirements set forth above.

The petition is **GRANTED**.

Since it has been established that the Notice of Allowance was not received, it is presumed that Applicant also failed to receive the Notice of Allowability and examiner's reasons for allowance. The application will be forwarded to the Technology Center's technical support staff for mailing of a new Notice of Allowance and Issue Fee Due, as well as a copy of the Notice of Allowability and examiner's reasons for allowance. The three (3) month non-extendable time period for paying the issue fee will be set to run from the mailing date of the new Notices.


Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications